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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,885	01/22/2002	Jose Duez	BDL-364XX	5084

207 7590 05/20/2003

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BOSTON, MA 02109

EXAMINER

NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 05/20/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/009,885

Applicant(s)

DUEZ ET AL.

Examiner

Tuan N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipate by Hori.

Hori discloses a nib constituted of a segment of a coherent, elongated rod/element of high porosity polyester fiber material (10) having a diameter lying in the range of 2 mm to 15 mm (see col. 7, line 4 et seq.), with at least a first end shaped to form a writing tip (see Figs. 1a-5b). The material includes pores or capillaries blocked over a limited thickness lies in the range of 0.01 mm to 1 mm (see col. 7, line 17 et seq.). A sealing agent (18) of synthetic resin such as epoxy resin, urethane resin, or phenolic resin blocks the pores or capillaries. The resin being claimed in claims 4, 5, and 9 are inherently another form of the above synthetic resin. The elongated element would constituted of "sintered microbeads" since it is being molded or thermal shock under temperature lying in the range of 200°C to 300°C for a period of 10 to 50 seconds (see col. 3, line 50 et seq. and col. 7, lines 18-23). The method as claimed would be inherent during normal manufacture of the Hori nib.

***Response to Arguments***

2. Applicant's arguments filed April 2, 2003 have been fully considered but they are not persuasive.

The Examiner agree with the Applicant in lines 11-13 of page 8 of the amendment filed April 2, 2003 that Hori device and method is to eliminate "non-uniformity in the fiber density in the center part of the cross-section of the pen core."

The Examiner, however, disagree with the Applicant's assertion in lines 14-20 of that same page be. Contrary to Applicant's speculation, the Hori clearly indicates that the filament rod-shaped body (15), once formed, is then being impregnated with the liquid resin in a liquid resin bath (16) which is similar to Applicant's treatment bath (6); after that, the combination of the rod-shaped body (15) impregnated with liquid resin pass through a dielectric heating pipe/chamber (22). The Hori reference clearly indicates that the "resin content in the liquid resin becomes quickly gelled" (see col. 4, lines 59-61). The Hori reference further indicates in lines 12-26 of column 5 that "various states of resin solidification can be determined very easily by empirically setting the dial for the output adjustment" (see col. 4, lines 24-26). It appears that the dielectric heating process of Hori is merely for solidifying the resin of the liquid resin on the periphery of the filament rod-shaped body (15) and not the pen core as asserted by the Applicant in lines 18-19 of page 8 of the amendment filed April 2, 2003.

It appears that the used of the term "core" by Hori is equivalent to the Applicant's used of the term "nib" and the "pen core" recited by Hori does not equate to the core of a nib. Therefore, the Applicant's arguments filed April 2, 2003 have been respectfully traversed for the reason above and the rejection made in the previous office action is maintained herewith as indicated above.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

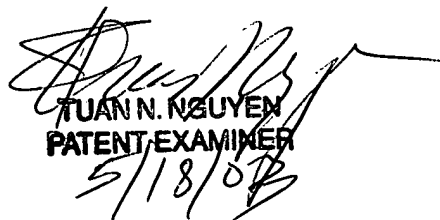
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 703-306-9046. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9301.

TN

May 18, 2003

  
TUAN N. NGUYEN  
PATENT EXAMINER  
5/18/03